

EXHIBIT 27

Page 197

1

2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK
-----x

4 FRANKLIN BUONO,

5 Plaintiff,

6 vs.

7 Index No.:

8 7:17-CV-05915-PMH-LMS

9 POSEIDON AIR SYSTEMS, VICTORY
10 AUTO STORE, INC., VICTORY AUTO
11 STORES, INC., d/b/a POSEIDON
12 AIR SYSTEMS, WORTHINGTON INDUSTRIES,
13 INC. and TYCO FIRE PRODUCTS LP,
14 Defendants,

15 -----x
16 TYCO FIRE PRODUCTS LP,

17 Third-Party Plaintiff,

18 vs.

19 OPRANDY'S FIRE & SAFETY, INC.,

20 Third-Party Defendant.
21 -----x

22 June 26, 2020

23 9:00 a.m.

24
25 Continued Remote video-conference deposition of
THOMAS TARANTO, taken by Third-Party Defendant
Oprandy's Fire and Safety, Inc., held at Lysander,
New York, before Judith Castore, a Certified
Livenote Reporter and Notary Public of the State of
New York.

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3 **A P P E A R A N C E S**
4

5 **On behalf of the Plaintiff:**
6

7 **FINKELSTEIN & PARTNERS, LLP**
8 **1279 Route 300, P. O. Box 1111**
9 **Newburgh, New York 12551**
10 **845.562.0203**
11 BY: **KENNETH B. FROMSON, ESQ.**
12 **Kfromson@lawampm.com**
13 **(Via video-teleconference)**
14

15 **On behalf of the Defendant/Third-Party Plaintiff**
16 **Tyco Fire Products LP:**
17

18 **WILLIAMS & CONNOLLY, LLP**
19 **725 12th St NW**
20 **Washington, D.C. 20005**
21 **202.434.5000**
22 BY: **DANIEL WHITELEY, ESQ.**
23 **dwhiteley@wc.com**
24 **JAMES KIRKPATRICK, ESQ.**
25 **Jkirkpatrick@wc.com**
26 **COLETTE CONNOR, ESQ.**
27 **(Via video-teleconference)**
28

29 **On behalf of the Third-Party Defendant:**
30

31 **HAWORTH, BARBER & GERSTMAN, LLC**
32 **45 Broadway, Suite 2110**
33 **New York, New York 10006**
34 **212.952.1100**
35 BY: **TARA FAPPIANO, ESQ.**
36 **tara.fappiano@hbandglaw.com**
37 **(via video-teleconference)**
38

39 **ALSO PRESENT:**
40

41 **JACK DANON**
42

1

2 IT IS HEREBY STIPULATED AND AGREED, by and
3 among counsel for the respective parties hereto,
4 that the filing, sealing and certification of the
5 within deposition shall be and the same are hereby
6 waived.

7 IT IS FURTHER STIPULATED AND AGREED that all
8 objections, except to the form of the question,
9 shall be reserved to the time of trial;

10 IT IS FURTHER STIPULATED AND AGREED that the
11 within deposition may be signed before any Notary
12 Public with the same force and effect as if signed
13 and sworn to before the court.

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EXAMINATION BY MS. FAPPIANO:

3

Q Good morning, Mr. Taranto.

4

Just to reminder that the same rules of
yesterday apply. I may be skipping
around for different topics a little
bit more than you saw yesterday.

8

So, if at any point you don't
understand the context of my question,
just let me know and I will try to make
that a little bit clearer for you.

12

A Okay.

13

Q Of course, if you don't
understand my question or you can't
hear me for any reason, certainly let
me know that as well.

17

A Will do.

18

Q Okay. So in your deposition
yesterday you discussed a number of
contributing factors, correct?

21

A Correct.

22

Q And you distinguished those
from a root cause, correct?

24

A Yes. We talked about the
definitions of those two terms.

1 TARANTO

2 Q Correct. And there can be
3 many contributing factors to any one
4 event, correct?

5 A Absolutely. And there could
6 to be multiple root causes.

7 Q And the idea is that with a
8 contributing factor is that if that
9 factor, if eliminated, wouldn't prevent
10 the accident from occurring; is that
11 right?

12 A Right.

13 Q So my understanding is that
14 with a contributing factor, if that
15 contributing factor were eliminated, it
16 wouldn't prevent the accident from
17 occurring.

Is that a fair understanding?

19 A Correct. That's the basic
20 difference between a contributing
21 factor and a root cause. If a root
22 cause were eliminated solely alone
23 without doing anything else, then the
24 accident would not have occurred. But
25 if you have a factor that if that

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factor is the only thing you eliminate,
the accident may still occur, then
that's a contributing factor.

5

Q So, in this case, is there
any one thing or root cause that if you
did take it away would have prevented
the accident, in your opinion?

9

A Yeah. The report outlines
two root causes. One is that filling
from the high pressure cascade system
created a situation where you could
reach a pressure equal to the pressure
that the test tank would fail at.

15

So, if the source of the
compressed gas was at a pressure less
than the burst pressure of the vessel,
then the accident would not occur.

19

Q Okay.

20

A And the second root cause is
described as having the pressure
entering the test tank limited to 25
psi above the pressure -- working
pressure of the tank. And that is a --
in the NFPA standard, that is the

1 TARANTO
2 prescribed practice. So, if by
3 whatever means the pressure was
4 actually limited to 25 psi above the
5 pressure of -- working pressure of the
6 tank, then the incident would not have
7 occurred.

8 Q Okay. I'm going to get to
9 those a little bit more later. But I
10 want to jump back to some of the
11 contributing factors that we talked
12 about yesterday.

13 A Sure .

14 Q One of them was the regulated
15 pressure from the output source, right,
16 so the cascade system?

17 A Yes.

18 Q And you say in your report
19 that that pressure was set at 450 psi
20 based upon the information that you
21 read. correct?

22 A That was based on Mr. Faust's
23 statement to OSHA.

24 Q That was my next question.
25 That was your sole basis for that

1 TARANTO

2 information, right?

3 A Yes, yes, correct.

4 Q That's because that's what he
5 said he did but that may or may not be
6 true, correct?

7 A Right, right. And that's why
8 it's a contributing factor because --
9 and, I mean, any mechanical piece of
10 equipment can fail. He could have not
11 realized what it was set at. There is
12 lots of different things that you could
13 say that would then lead to the
14 incident independent of the fact that
15 he was under the impression that was
16 the regulator was set at 450 psi.

17 Q Now, if we assume that that
18 is what he did, in fact, do, for the
19 purpose of this question, you also said
20 that the next contributing factor in
21 the chain, I, kind of, think of it in a
22 chain in my mind, is that the regulator
23 would have had to have been properly
24 calibrated. correct?

A Yes. There could be a

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2 calibration problem. The regulator
3 could fail to function correctly. But,
4 yes, I did say that the calibration
5 leads to the question of, well, what
6 was the real pressure because the
7 instrument he was reading was not
8 calibrated within a prior year which
9 is, again, something that the NFPA
10 standards recommend -- require
11 actually.

12 Q That's what I want to ask you
13 about. Your basis of information for
14 it not being calibrated, if I'm
15 understanding your report correctly and
16 your testimony, is that there was a
17 lack of record of calibration, correct?

18 A Correct. There is not a
19 record of calibration. And -- but,
20 generally, when a calibration is done,
21 there is a calibration label applied to
22 the device after the calibration has a
23 date on it.

24 Q So that would also be a part
25 of the record?

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A Yeah. That's normally the case. I don't know if the labeling is part of the requirement or not. I have to research that. But that's normal that there would be a label there marking the calibration date.

8

Q But besides that lack of record, for lack of a better term, was there any other information in this record which showed you or led you to conclude that it was not properly calibrated?

14

A No.

15

Q And you did see the OSHA report and the investigation for this incident, right?

18

A Yes, I did. And it was, as listed in the appendix of my report, I believe we're all working on the same report in that regards. It has Bates numbers and such.

23

Q I agree with that.

24

Did you see any information there about OSHA's investigation of the

1 TARANTO

2 calibration of the regulator?

3 A No. OSHA did not test the
4 regulator, did not -- the regulator is
5 not one of the parts that OSHA took
6 from the scene the day of the incident.

7 Q Okay. Did you have an
8 opportunity to inspect the regulator
9 when you did your inspection of the
10 various pieces of equipment?

11 A Yes. When we did the site
12 inspection, we observed the regulator
13 still attached to the cascade system.
14 And it was stated that that was the
15 regulator from the incident.

Q Did you see if it was
properly calibrated at that time?

18 A Actually, the gauge is what
19 would be calibrated. And the photos
20 show the gauges, whether it was as a
21 result of the incident or prior to the
22 incident, the gauges were damaged when
23 I observed them. I don't have a photo
24 in the report of that.

25 O You are just looking at your

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2 report right now?

3 A Yes. I was just looking to
4 see if there was a photo of the gauge
5 in there, but I don't believe there is.

6 Q Have you -- and I believe you
7 said you did -- you reviewed a number
8 of other expert reports?

9 A Yes .

10 Q Did you --

11 A No. Actually my report was
12 finished before I received the expert
13 reports. But preparing for deposition,
14 I reviewed the expert reports that came
15 to me after my report was reviewed by
16 them

17 Q Fair enough. Did you ever
18 see the expert reports that were
19 prepared by either Derek Nolan or Eric
20 Villhauer?

21 | A Who?

22 Q Derek Nolan or Eric
23 Villhauer?

24 In preparation for your
25 testimony? It wouldn't be listed in

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2 | your report.

3 **A** **No.**

4 Q Do you know if either of
5 those two experts or any of the experts
6 in this case reached a conclusion as to
7 whether the gauge on the regulator had
8 been properly calibrated at the time of
9 the accident?

10 | A No.

11 Q I want turn now to the safety
12 relief valve. But I do understand that
13 there is a number of different safety
14 relief devices that you have discussed,
15 correct?

16 A There is many different types
17 that could potentially be used, yes.

18 Q Now, you have said that the
19 lack of that type of a safety device
20 was a contributing factor in the
21 accident, correct?

22 A Yes.

23 Q And are there any regulations
24 that actually require the use of this
25 type of a device?

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A No, there are not, that I'm
aware of.

4

Q Now, if such device were
used, and this is -- I just want to get
an understanding of it -- where would
it be placed in the system?

8

A Well, if you start at the
cascade tanks, then you have the
regulator, then you have a hose or
piping that connects the regulator to
the valve. And the means of attaching
that end of the hose is simply to the
tank that you are filling.

15

So, somewhere between the
regulator outlet and the attachment
point to where you are filling the tank
would be the location that you would
want to put the safety valve. And the
safety valve would be set at a pressure
above the working pressure of the tank
but well below the burst pressure.

23

Q Now, we had a lot of
conversations yesterday about the
manual.

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Does the manual have any
mention whatsoever of this type of a
safety relief device?

5

A It does not.

6

Q And are you aware of there
being any training that would be
provided by a third party that would
have spoken to the need for this type
of a safety device?

11

A No.

12

Q And, so, we know in this case
there was no safety device, is there
also the ability to put some sort of
safety device into the valve itself on
the tank?

17

A I haven't looked at the
specifics of the valve that was used on
the tank to see if it had any means. I
didn't see any means of really putting
a safety device on the valve, although
there are various methods that would
allow a safety device to be at the
connection point of the valve to the
tank.

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Q What are the means or what
are those methods that you are speaking
of?

5

A One method that I have seen
used would be to have a connection off
of the side of the valve similar to,
you know, how the valve has the little
gauge on it. Well, there could be
another connection that would allow you
to attach a safety valve at that point.

12

Another method used is
something called a rupture disk. And a
rupture disk is simply a metal disk
which is designed and known to burst at
a given pressure.

17

And, again, you would have a
key connection to the tank somewhere to
the gauge is connected to but it would
be connected to the rupture disk. And
that would then, over pressure
situation, that disk would rupture and
relief the pressure. Those are two
methods that I have seen in my
experience.

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2 Q And any of the manual --
3 anything in the manual recommend the
4 use of either of these types of
5 methods?

6 A No.

7 Q Was the valve itself designed
8 to utilize either of these two methods?

A It didn't appear to be.

10 Q Did you -- I think you said
11 you had read the report of Tyco's
12 liability expert Brad James?

13 A James?

14 Q Yes. It may not even be
15 necessary for the point of this
16 question, so why don't I just ask it.

17 A I don't see that one.

18 Q Okay. In Mr. James' report,
19 he makes the statement: A suitable
20 functioning pressure relief valve or an
21 appropriate gas pressure regulator
22 would have prevented over-pressurizing
23 the subject tank.

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2 A The statement sort of applies
3 that it's a root cause, that one of
4 those devices would have prevented the
5 incident solely by itself. But either
6 of those devices are subject to
7 malfunction or not being set properly
8 and so you -- I would consider that as
9 a contributing factor, not a root
10 cause. And I don't know that one of
11 those singularly by itself would have
12 absolutely prevented the incident.

13

Q So, based upon the
14 information that you have reviewed in
15 this case and your experience and your
16 training and your background, would you
17 expect a company like Oprandy's to
18 independently have had the training or
19 the information to know that a safety
20 device like you described should be
21 used?

22

A I would say that I have
23 observed systems that have those safety
24 devices in place. I don't know if
25 those safety devices were a result of

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the end user client or the result of
the provider of the system or the
result of having a consultant give you
input to the system.

6

But I have seen a lot of
those systems that have those safety
devices in place. And if I was
consulted, I would -- I generally
recommend both a safety valve and a
rupture disk.

12

Q Can you tell me what any of
those other systems are?

14

A Any time you have a
connection of a high pressure system
into a system with lower pressure rated
components, you always should be -- one
of the failure modes of that system is
what happens if all of the controls
malfunction and you just start dumping
high pressure gas into the low pressure
side of the system. What is the
result?

24

Well, the result should be
either the valve relieves the pressure

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or the rupture disk blows and vents the
pressure. The last resort is that the
low pressure components explode. So
that would be a normal thing that you
would consider in your failure modes.

7

Q When you say that you would
consider -- you just indicated that you
don't know if that's something that,
for example, the manufacturer would do,
that the distributor might do, that a
consultant who comes in on behalf of
one of the various entities in the
stream of commerce, you don't know who
would make that decision, right?

16

A The decision ultimately is
going to be made by the owner but who
would bring that up as a best practice
that should be considered. Again, in
the systems that I have owned, I have
observed systems that have that type of
thing in place. I don't know if it was
the owner who took the initiative or
someone else in the chain.

25

When I'm in the chain, I

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would take that initiative to say, we
should have some sort of safety
protection in here. I would recommend
a safety relief valve and a rupture
disk.

7

Q To be clear, in this case
there is no recommendations made, as
far as your review of the materials and
other information here, by either
Poseidon or Tyco that this be done,
correct?

13

A Correct. There was nothing
in the record.

15

Q There is nothing, as far as
you know in any of the training that
Oprandy's had or could have had, that
made that recommendation, correct?

19

A I read in the record that the
training was done by a company from
Baltimore, Maryland, Fire Protection
Consultants I believe may be the name.
And I'm unfamiliar -- I have no
information on their training. I'm
unfamiliar with their training.

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2 Q If the training that
3 Oprandy's had obtained was the training
4 by offered by Tyco, that would have
5 been based solely upon what was in the
6 manual, correct?

7 A Yeah. Mr. Harding, who was
8 the technical support rep for training,
9 said that the manual was the primary
10 source of the information used during
11 their training. There was no mention
12 of that in the manual.

13 Q So, we started talking about
14 this a little bit earlier. There was a
15 lot of discussion about the amount of
16 pressure that could be used from the
17 Poseidon cascade system, the high
18 pressure capabilities of that system,
19 right?

20 A Yes.

Q And, for the test tank that
was being filled, the recommended psi
for that test tank was 225 psi; is that
correct?

25 A Correct.

1 TARANTO

2 Q Where is that indicated in
3 your report, if you recall?

4 A Pardon? I can't hear.

5 Q Where is that information
6 about the input pressure? Is that what
7 you call it?

8 A Working pressure.

9 Q The working pressure. Okay.
10 I will use that terminology.

11 Where is the information
12 about the working pressure indicated?

13 A The DOT marking applied to
14 the tank by the tank manufacturer
15 Worthington indicates 4 BW 225. And
16 the 225 component of that marking is
17 the working pressure of the tank.

18 Q That's the only place that it
19 appears, correct?

20 A Correct. On an agent tank,
21 that pressure would also appear on the
22 NFPA label.

23 Q Is there any information
24 about the test tanks working pressure
25 in the manual?

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A There is no information about
the test tank in the manual other than
its listing as a component of the
system and a part number.

6

Q Is there any information in
the manual that speaks to what type of
system should be used to fill this type
of test tank?

10

A Again, the only reference to
the test tank is the part number.

12

Q Now, the Poseidon cascade
system was equipped to fill something
that would have a working pressure of
225 psi; is that correct?

16

A Yes. There was a regulator
in place to step the pressure down.

18

Q If that regulator was set
that to that level, it could do that,
right?

21

A Provided it didn't
malfunction.

23

Q Okay. But here the burst
pressure was actually much, much
higher, right?

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A The burst pressure, I
believe, in the OSHA report indicated
in excess of 1000 psi.

5

Q And you had mentioned that
the NFPA has information in it about
where to set the output pressure; is
that correct?

9

A Yes. 25 psi above the
working pressure of the vessel.

11

Q So, it would then figure that
what the expectation would be is that
the output pressure was set at 250 psi,
right?

15

A Correct, according to the
NFPA standards.

17

Q But here it was set at 450
psi if we believe Mr. Foust, right?

19

A As Mr. Foust indicated, yes.
And if the gauge is reading correctly.

21

Q Correct. And taking all of
that into account, though, this burst
pressure was much higher. So is it
really a contributing factor that the
NFPA standard wasn't followed?

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2 A Yes, because, again, had the
3 NFPA standard been followed, the
4 pressure would have been set at
5 250 psi. And, again, we don't know if
6 there was a malfunction or what
7 caused -- I mean, there is a conundrum
8 here, right? We have a vessel that
9 mechanically is proven to burst at over
10 1000 psi. One out of 500 vessels were
11 tested at the factory to 900 psi and
12 never had a failure. And yet we have a
13 source reportedly set at a pressure of
14 400 psi yet the tank burst.

15 Q It had been set even lower,
16 it may not have even have made a
17 difference; is that right?

18 A Correct. But, again, it's a
19 contributing factor. Again, if you
20 take that -- if you take that one
21 element out of the chain, it doesn't
22 mean that the accident would not still
23 have occurred. So it's a contributing
24 factor. It's not a root cause.

25 Q Understood.

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Is there any information
anywhere in the manual for the Kitchen
Knight system that advised end user
that only certain pressure systems
should be used?

7

A No.

8

Q Is there any information in
that manual saying that the output
pressure should only be 25 psi over the
working pressure?

12

A Not that I recall.

13

Q Before I go into some of the
other factors, I want to discuss the
business of open just for a moment --

16

A Yes.

17

Q -- and what was happening or
intended to happen the day of this
accident.

20

Are you aware that the test
tank that was being filled was going to
be used, how it was going to be used
that day had the explosion not
occurred?

25

A Yes. It was reportedly being

1 TARANTO

2 prepared for a balloon test.

3 Q And Mr. Scott was the
4 individual who was going to be doing
5 that balloon test, correct?

A That's what I understand.

7 Q And he was going to be the
8 one what was going to be using it and
9 taking it out of the property for that
10 purpose, correct?

11 A Yes.

12 Q And he had no intention of
13 giving it to anyone else, a customer,
14 the restaurant owner, anyone else,
15 right?

16 | A No.

17 Q And there was actually no
18 employee of his who was expected to use
19 it either to do the balloon test,
20 right?

21 A Not that day. Although, I
22 believe in his testimony he did have
23 other service people who might
24 potentially be doing a test like that.
25 But that day, he intended to use the

1 TARANTO

2 tank is what I understood.

3 Q He wasn't going to sell it to
4 anyone that day? He wasn't going to
5 distribute it to anyone that day,
6 right?

7 | A No.

8 Q This really -- the test tank
9 itself is not something that is
10 typically sold or distributed to other
11 people because it has a specific
12 purpose; is that correct?

13 A It's something that an end
14 user would not have any need for a test
15 tank because it's not used for anything
16 that the end user would be doing.

17 Q So, with all of that being
18 true, can we say that Oprandy's was in
19 the business of supplying test tanks?

20 A Well, again, I don't know
21 that. That's a technical question.
22 But it certainly wasn't the intention
23 that day that there would be any
24 transfer of custody of ownership of
25 that test tank.

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Q Have you seen any information
that there would be ever transfer of
custody of that type of test tank in
the general course of Oprandy's
business?

7

A That's a pretty broad
statement. I don't think I have
investigated that broad of a record
but...

11

Q Fair enough.

12

A The limited information I
looked at, the test tank was something
that they used to provide a service,
service required in the standards which
is every six months to a piping
integrity test.

18

Q So, yesterday there was a lot
of discussion about the language in the
CGA regulation about the gas supplier.
Do you remember that?

22

A Yes.

23

Q And my understanding of the
CGA, and tell me if you agree with
this, is that the regulation is

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applicable to a situation where the
compressed air container of some kind
is being transported from one location
or another in the course of some sort
of distribution or supplying of that to
another user. Is that something you
agree with?

9

A I don't remember the section
of CGA verbatim, but it said in the
business of filling and distributing
gas.

13

Q And you gave the example
yesterday of one company -- I don't
recall the name -- but that was part of
its business was to sell freon in
canisters?

18

A Yes.

19

Q That's the example of the
type of company that would fall under
this regulation. Is that fair to say?

22

A Yes. If a service company
needs freon to work on an air
conditioning system, they go to a gas
supplier and get a tank of freon to

1 TARANTO

2 use .

3 Q And then it's transported to
4 that --

5 A -- transported to the site
6 and they do the service.

7 Q Okay. Is that example in any
8 way, shape or form what was happening
9 with the test tanks in this case?

10 A No. Again, I mean, that
11 includes a transfer of custody of that
12 tank from the gas supplier to the
13 service provider. In this particular
14 case, there was never any intended
15 transfer of custody or ownership of the
16 tank.

17 Q Now, the CGA regulations that
18 we talked about yesterday also provide
19 requirements for labeling of these
20 types of canisters being used in this
21 application; is that correct?

22 A Labeling of any vessel
23 containing gas that's going to be
24 transported.

25 O And what is the purpose of

1 TARANTO

2 that labeling?

3 A Well, the purpose of the
4 labeling is for guys like me in the
5 fire department, when we show up on a
6 scene and got bottles laying all over
7 the place, it gives us a starting point
8 to figure out what we're dealing with.

9 Q Right. So isn't the label
10 really to indicate what the contents of
11 it is so people know what's in it,
12 right?

A The label, if we look at the CGA standards, is many things. The contents being one of those things. But also it has hazards indicators whether it's flammable, whether it's under pressure, whether it's corrosive or explosive. So there is many components in the CGA standard of the information that they prescribe should be on the label. And they actually have label samples, and there is prescribed ways to the labels are supposed to be prepared and attached.

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Q So it make sense that when
you have an agent tank distinct from a
test tank, that there would need to be
labeling that talks about its contents
and the hazards inherent in the
contents of what is inside the canister
or the container?

9

A Well, yes, but also there is
a label prescribed for air under
pressure too.

12

Q Okay. I do understand that.
I'm going to ask you about that
separately but --

15

A I'm getting ahead of you.

16

Q No. That's fine. No
problem. But, you know, under what the
CGA requires, is there really any
reason for a test tank to have had the
labeling that the CGA describes in the
manner in which it was intended to be
used in this case?

23

A For transport, that's the
purpose of the labeling. And if the
tanks are going to be transported,

1 TARANTO

2 | there should be labeling.

Now, if you were to -- for example, I purchased for this project an exemplary agent tank. And it comes with the agent in it and pressurized. And the tank itself did not have the CGA labeling on it, but the carton that the tank was in had the labeling.

10 Q I see.

11 A So, if it's transported in
12 that carton to the end user and then
13 the agent tank is installed in the fire
14 suppression system and it's not going
15 to be transported again after that,
16 then all of the requirements have been
17 met.

18 Q Okay. What you were just
19 talking about was for an agent tank,
20 correct?

21 A Yes .

22 Q And that packaging, did you
23 order it from Tyco or from somewhere
24 else?

A. I don't recall. It may have

1

TARANTO

2

Q You started to talk about
this and we'll talk about this now,
there is other information that is --
and we'll talk specifically about the
agent tank that we've seen in this
case. You have a picture of the label
in your report, okay?

9

A Yes.

10

Q That's what I'm talking about
right now.

12

A Yes.

13

Q That label had other
information on it besides what's
required by the CGA, correct?

16

A Right. That label has
information in accordance with NFPA 10.

18

Q Tell me what the purpose of
that other information is that is on
the label of the agent tank that you
describe in your report?

22

A Well, it has -- it has the
working pressure of the tank; it has
the capacity of the tank; it has the
Tyco part number of the agent that is

1

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2

to be put in the tank; I believe it
also has the factory test pressure of
the tank indicated as well; and then
there is various warnings and cautions
that are listed.

7

Q I see you reading from your
report?

9

A I'm looking the picture of
the label.

11

Q That's what I thought you
were doing. So I'm going to open mine
too. Just give me one moment.

14

MR. FROMSON: Just for the
record, that's on Page 47 of your
report.

17

A Yes, 47.

18

Q So, we're looking at the same
thing. Now, so the information that I
just described, does that have to do
with the use and operation of the agent
tank, generally speaking?

23

A Yeah. Specifically under
recharge is where it's indicated refill
only with 3 gallons of Pyrochem Wet

1

TARANTO

2

Agent and has a part number. And
pressure to 225 psi and the gross
weight after everything is all done is
listed 56.7 pounds, maybe it says. And
that information is all consistent with
the requirements of NFPA 10.

8

Q There's also a section about
maintenance?

10

A Yeah. There's a heading
maintenance, there's a warning heading,
and a caution heading.

13

Q Now, that label, do you know
who designed that?

15

A That would be ultimately
produced by Tyco Pyrochem and with
guidance in the NFPA 10 requirements.

18

Q So, I guess the question is,
that's already on the agent tank when
you receive it, right?

21

A Yes. And, actually, the
label itself has a part number. If you
look at the center at the very bottom,
and I would believe that's a Tyco part
number for that label. So it goes into

1

TARANTO

2

the bill of material and affixed to the
tank.

4

Q Who would be the intended --
for lack of a better term -- reader of
this label? Who is that label intended
to reach?

8

A Well, I think if you look
back to the information that I pulled
off of the Finbar website, it would be
anyone who's using the tank that could
be potentially harmed by its use,
right? It's there for anyone to see.

14

Q So who is doing the
maintenance, though?

16

A In terms of the manual, it is
authored and a factory-trained person
who's been trained by Tyco.

19

Q Okay. It's not -- for
example, this is going into a
restaurant fire suppression system,
right?

23

A Yes.

24

Q So it's not expected that
this label is going to be something

1 TARANTO
2 that the -- just with regard to the
3 maintenance section, that's directed
4 towards the owner of that restaurant or
5 his employees, right?

6 A No. NFPA requirements have a
7 separate owner's manual that the owner
8 is supposed to receive. It has
9 information relevant to them in it.

10 Q Okay. And there's also a
11 section here entitled recharge which
12 you talked about a little bit.

13 Whose expected to be doing
14 the recharging?

15 A Well, again, according to the
16 manual, it would be an authorized
17 distributor and a factory-trained
18 technician.

19 Q And, again, that's not the
20 owner of the restaurant where the
21 system is installed or his employees,
22 correct?

23 A No, it's not.

Q And that same technician that
you described is also the one who would

1

TARANTO

2

be expected to be using a test tank for
balloon testing; is that correct, or
someone similar to that?

5

A Yes, it would be the
maintenance and servicing of the system
per the manual is expected to be done
by an authorized distributor and a
factory-trained technician.

10

Q So, in your opinion, is there
any reason at all to not include the
same information that that we see on
this label for the agent tank on a
label to be applied to a test tank?

15

A Well, it's in my report. And
it's my opinion that because the test
tank is listed as a component of the
fire protection system, and it's
produced by a fire protection company,
and it's introduced into the fire
protection market that that tank
requires a label also meeting NFPA 10
requirements. And, for example, where
the label in figure five is saying
refill only with 3 gallons of Pyrochem

1

TARANTO

2

Wet Agent with a part number, the label
on the test tank would say fill only
with dry air or nitrogen to a pressure
of 225 psi and so forth.

6

And when you are all done,
the gross weight of the tank should be
whatever the tank was full of air at
225 psi. That would be consistent with
the requirements of NFPA 10.

11

Q So, if in this case Tyco
Pyrochem put the label on this agent
tank, isn't it all reasonable to expect
that someone other than Tyco would then
be designing, recreating and applying a
label that would include the same
information?

18

A It would be redundant.

19

Q I guess what my question is
is if Tyco does not put the label on
the test tank having created, designed
and placed the label on the agent
tanks, is the expectation in your
industry, background, experience,
training that the end user of a test

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TARANTO

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tank, the service technician would then
have to recreate or design the very
same label that would exist on an agent
tank?

6

A No. The expectation, the
standard is that label in NFPA 10 is
placed there by the manufacturer of the
fire protection tank.

10

Q Thank you. Okay.

11

Now, there is some language
on this label, and my copy is a little
hard to read but I think yours is
probably better.

15

A Everything is not 100 percent
clear. It's just taking a picture of
the rounded tank is beyond my
photographic skills.

19

Q Mine too. I think what it
says is, quote, cylinder factory test
pressure 450 psi, do you see where it
says that? It's on the right side of
the label.

24

A Is it under the cautions?

25

Q Yes. Let me just see.

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1

TARANTO

2

A It's about the one, two,
three, fourth item down cylinder
factory test pressure. And, again, if
you look at NFPA 10, the factory test
pressure for the cylinder is a required
element to be on the label.

8

Q Okay.

9

A And that particular cylinder
by Worthington, every cylinder is
tested to 450 psi. And then one out
500 cylinders are tested to 900 Psi.
That's according to DOT requirements.

14

Q That's what the term factory
test pressure refers to then, correct?

16

A The manufacturer of the
cylinder, yes.

18

Q And I'm not going to have you
look at the document right now but you
can take my word for it and check later
if you want to, that identical language
also appears in the manual.

23

A Okay.

24

Q So do you think that -- let
me see how I can phrase this. Give me

1 TARANTO

2 one second.

3 Would a service technician
4 understand that factory test pressure
5 is something different than the test
6 pressure or pressure that would be used
7 with a test tank?

8 A I think that someone reading
9 the label and seeing that the working
10 pressure of the tank is 225 and the
11 factory test pressure is 450, you would
12 know that there is a difference between
13 the two, right?

14 Q Okay. I guess what my
15 question is, I may be completely off
16 base on this and tell me if I am.

17 When I see test pressure and
18 I see 450 psi and then we have the
19 information that the output pressure
20 that was being used on a test tank was
21 450 psi, could it have been that Mr.
22 Foust believed that what that indicated
23 in the manual and the label is what he
24 was supposed to be setting the pressure
25 to?

1

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A I suppose that's possible. I
don't know that to be the case.

4

Q Can we agree, though, that
that it could potentially have been a
conclusion that he reached?

7

A Could be a misunderstanding.
But, again, in training the difference
should be known to a trained person.

10

Q Do you know that the training
that Tyco provided would have included
that information?

13

A Well, if it's in the manual,
then -- and given that Mr. Harding
indicated the manual is their primary
source of information for training, I
would say that, yes, for the agent tank
part of their training would be that
the working pressure is 220 and the
factory test pressures are 225 --
excuse me -- and the factory test
pressure is 450 and what those mean.
But, again, the manual is silent with
respect to the test tank.

25

Q Is there a definition in the

1 TARANTO

2 manual at all about what the factory
3 test pressure means?

4 A Not that I saw. Not that I
5 recall.

6 Q Now, if we go back to the
7 label and let me just see where it is
8 just give me one second. I'm starting
9 to need glasses but I'm not giving in
10 yet.

11 But there is some language I
12 wrote it down but I didn't circle.
13 Looking at the label it says, quote,
14 Install, inspect, maintain and test in
15 accordance with Pyrochem manual.

16 It's actually on the left
17 side towards the bottom of the
18 paragraph of the label speaking to
19 maintenance.

20 A It also -- it actually says
21 in accordance with Pyrochem manual and
22 then there is a part number perhaps
23 561274. And NFPA 17A standard.

24 Q Okay. If you go though to
25 the manual being directed by this

1 TARANTO

2 | label.

3 **A** **Yes.**

4 Q On an agent tank, then you
5 would find the information that you
6 would need to install, inspect,
7 maintain and test?

A That would be expected, yes.

9 Q But there is no information
10 in there about how to utilize the test
11 tank, correct?

12 A The only information in the
13 manual related to a test tank is the
14 part number in the components list.

15 Q Okay. And if an employee
16 only had the test tank itself, and
17 didn't have the agent tank with its
18 label on it, they wouldn't even get the
19 direction to be directed to the manual;
20 is that correct?

21 A Correct.

22 Q I'm getting there. I
23 promise.

1

TARANTO

2

Q I think we touched a little
bit on this yesterday. But in your
review of the materials and the
information that was provided to you,
is there anything that indicates that
Tyco does anything to track who is
ultimately using their products?

9

A Not that I recall. Although,
I might review the owner's manual to
see if there is a registration form for
the system in the owners manual. I
don't specifically recall that there
was but I have to take a look at that.

15

Q That's fair enough. And we
talked earlier about the tank that you
ordered.

18

When that tank came to you,
was it accompanied by any type of
manual?

21

A No.

22

Q Now, there was some
discussion yesterday about whether or
where the manuals were kept by
Oprandy's in their business.

1 TARANTO

2 Do you recall talking about
3 that a little yesterday?

4 A Not specifically, no.

5 Q Are you aware that there is
6 testimony that the manuals for the
7 Kitchen Knight system were kept in a
8 file cabinet in the office of
9 Oprandy's?

10 A I recall in Mr. Scott's
11 deposition that there was a reference
12 to a location where they kept manuals,
13 yes.

14 Q And that that -- did you see
15 anything about the fact that the
16 employees all had access to that
17 location and knew that's where they
18 were?

19 A I don't recall that
20 specifically, no.

21 Q At the time of the accident
22 though, did Mr. Buono or Mr. Foust stop
23 what they were doing and say, Hey, we
24 want to go find the manual and see what
25 to do now?

1 TARANTO

2 A No.

3 Q And, in fact, what plaintiff
4 did is he actually looked at what was
5 directly in front of him at that time,
6 right?

7 A Yes. I believe in my report
8 I have quotation in -- I think it was a
9 pretrial deposition where he indicated
10 that he was aware that things weren't
11 going well or properly and that he had
12 looked at the tank for any information
13 warnings or any other information that
14 would give some guidance to the
15 situation.

Q And is that a reasonable reaction under the circumstances?

18 A Yeah. I think it is. It's
19 on Page 49 of my report 5.2.10.1 that's
20 what I am referring to.

21 Q Okay. Perfect.

22 Let's just say hypothetically
23 that -- and this being one of the
24 contributing factors to this situation,
25 let's just say hypothetically that Mr.

1

TARANTO

2

Foust and Mr. Buono stopped everything
that they were doing, went to the other
room, pulled a manual out of the file
cabinet and read it, would that have
prevented this accident from occurring?

7

A Given that the manual is
silent with respect to the test tank
and only has the part number in it, I
don't know that they would have found
any valuable guidance in the manual,
no.

13

Q I'm going to change the
hypothetical just a little bit. Let's
say that they had stopped everything
that they were doing and went to look
for guidance.

18

What would that guidance had
to have been to prevent this from
happening at that moment in time?

21

A Ordinarily, the guidance for
that situation would be to stop what
you are doing and depressurize
everything and start over.

25

Q Okay. And what's the source

1 TARANTO
2 of that guidance that you just
3 described, the depressurizing? How
4 would somebody know that that's the
5 response that they should have made?

6 A That would be something that
7 would be a best practice to appear in
8 the step by step process of how you go
9 about pressurizing the tank.

10 Q So, something that would be
11 in the manual or should be in the
12 manual?

13 A I don't believe it's
14 necessarily required by any standards,
15 but I think as a best practice. It
16 would be prudent.

17 Q What's your basis for saying
18 that that would be the best practice
19 then?

20 A I think just generally with
21 any manual for any piece of equipment
22 or any mechanical system, if you
23 experience a condition where the system
24 is not responding appropriately, the
25 guidance in the troubleshooting and

1

TARANTO

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such would be to just stop and regroup,
bring the system to a known safe
condition and then start over.

5

Again, I don't know that it's
anything that you can point to a
specific regulation or standard for,
but it's certainly a best practice.

9

Q I want to discuss for a
moment some of the testimony you gave
yesterday about what Mr. Foust did do.

12

He pressed down on the valve
three times, correct?

14

A Yes.

15

Q And there may be some
conflicting evidence about this but he
may have used some sort of tool to do
that, correct?

19

A Yes.

20

Q And not to misquote you in
any way, but yesterday you felt that
this was not a contributing factor to
the accident; am I correct?

24

A Yeah, that's correct.

25

Q Could you tell me why you

1 TARANTO

2 believe that to be the case?

3 A Well, looking at the design
4 and the function of that valve, it's
5 not apparent how manually pushing down
6 on a valve would cause any change to
7 the air flow into the tank. The valve
8 is designed in a manner that allows air
9 to flow into the tank relatively
10 freely.

I say "relatively freely" because there is a spring internal to the valve and the air pressure differential across the valve has to exceed the spring force. And then the valve will open and allow the air in. And that differential is normally not a really high differential pressure. It's relatively low. I don't know the specifications of this particular spring or what the opening pressure of that valve is but normally it's a relatively low pressure differential. Then the purpose of the valve is to hold the air or in the case of the

1

TARANTO

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agent tank, the nitrogen, and the
extinguishing agent is to hold that in
the tank under pressure until a
discharge is necessary.

6

When a discharge is
necessary, high pressure nitrogen is
introduced to the cavity above the
valve and that forces the valve open
thereby allowing the air pressure or
the air flow to come out, or, in the
case of the agent tank, the nitrogen
pressure pushes the fire retardant or
fire extinguishing agent up a siphon
tube and through the system. That's
the function of the valve.

17

It's unclear to me how
manually pushing that valve would be a
causative factor of any type.

20

Q Okay. Thank you. I'm almost
done.

22

A No problem.

23

Q Now, yesterday we also had a
little bit of a discussion about a
safety cage.

1

TARANTO

2

Do you remember talking about
that yesterday?

4

A Yes.

5

Q Did you, either in
preparation of your report or for your
testimony, happen to read the testimony
of Patty Scott?

9

A I did not.

10

Q I'm going to represent to you
that in her testimony she described
there being two steel cylinders that
were placed on the front of the
compressor which was not being used.
And that, from her view, that is what
Oprandy's considered to be the safety
cage for these particular -- for this
filling station.

19

A Yes. I observed those
cylinders in the scene photos in the
record.

22

Q Okay. And so you verified
that you did observe that in the things
that you reviewed, correct?

25

A Yes.

1 TARANTO

2 Q And did you consider that as
3 being any type of contributing factor
4 in this accident?

5 **A** **No.**

6 Q And do you feel that your
7 report covers all of the contributing
8 factors in this case based on your
9 analysis?

A I think "all of" is kind of
an absolute term that maybe doesn't
apply. I mean, if you were to consult
with any number of other experts, they
may possibly find something that they
consider to be a contributing cause
that I didn't discover or that I
discovered but didn't consider
distributing cause. So it's just a
judgment thing. I don't think you can
speak to that in absolute terms.

21 Q Okay. Is there anything then
22 that you felt, as you sit here right
23 now, that's left out of your report
24 that you believe to be a contributing
25 factor that you want to add today?

Page 256

1

2 A No, there is not.

3

4 MS. FAPPIANO: Okay. That's
5 all the questions then that I
6 have. Thank you, sir, for coming
7 back today. Very much appreciate
that.

8

THE WITNESS: No problem.

9

(Time noted: 10:17 a.m.)

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1
2 **A C K N O W L E D G E M E N T**
3

4 STATE OF NEW YORK)
5) ss.:
6 COUNTY OF NEW YORK)
7

8 I, THOMAS TARANTO, certify, I have read
9 the transcript of my testimony taken under
10 oath in my deposition of June 26, 2020;
11 that the transcript is a true, complete
12 and correct record of what was asked,
13 answered and said during this deposition,
14 and that the answers on the record as
15 given by me are true and correct.
16

17 -----
18 THOMAS TARANTO
19

20 Sworn and subscribed to before me
21 this _____ day of _____, _____.
22

23 _____
24 Notary Public
25

C E R T I F I C A T I O N

STATE OF NEW YORK

) ss. :

COUNTY OF NEW YORK)

I, JUDITH CASTORE, Shorthand Reporter
Notary Public within and for the State
of New York, do hereby certify:

That THOMAS TARANTO, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that this transcript of such examination is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 30th day of June, 2020.

Judith Castore

JUDITH CASTORE

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2 I N D E X

3

WITNESS

PAGE

4

THOMAS TARANTO

5

6

Examination by:

7

MS . FAPPIANO

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2 E R R A T A

3

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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